May 14, 2010

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Application of Verizon Communications Inc. and Frontier Communications Corporation for Consent to Transfer Control of Domestic Section 214 Authority*, WC Docket No. 09-95

Dear Ms. Dortch:

Frontier Communications Corp. ("Frontier") and Verizon (collectively "Applicants") hereby respond to the May 13, 2010 letter of Thomas Jones and Nirali Patel on behalf of Integra, tw telecom inc., Cbeyond and One Communications Corp. Integra's allegations of performance issues are unwarranted and Integra et al.'s requested additional conditions are non-transaction-specific, unnecessary and, even if accurate, more appropriately the subject for separate complaints. John Nakahata, on behalf of Frontier, spoke with Carol Simpson of the Wireline Competition Bureau on May 13 and May 14, 2010, and presented points summarized in this letter. Donna Epps, of Verizon, spoke with Zachary Katz of the Office of Strategic Planning and Policy Analysis on May 13, 2010, and their discussion is also summarized in this letter.

First, Integra's concerns about alleged wholesale ordering issues are without merit. Verizon is committed to working through any issues with Integra (or any other CLEC) that arise. For example, Verizon and Integra hold a biweekly call to address any issues they may have, and Verizon personnel have recently agreed to meet with Integra on a weekly basis.

As the Commission is aware, at the end of March 2010, Verizon realigned its OSS serving the existing former GTE territories. This process included moving functions that were located in Ft. Wayne, Indiana, and were used to serve territories that Verizon is retaining to other data centers, while consolidating in Ft. Wayne all OSS needed to serve the territories that

Frontier will ultimately acquire, other than West Virginia (collectively the "13-states"). As a result, following the "stand-up" of its Ft. Wayne data center as a fully independent data center on March 27-28, 2010, Verizon has been operating that center with the replicated customer-facing systems for customers in the 13-states. Similarly, during the realignment, Verizon consolidated certain wholesale related functions in a center in Westfield, Indiana.

Consistent with the conditions imposed by the Oregon Public Utilities Commission and the Washington Utilities and Transportation Commission (the state commissions in the only two affected states in which Integra operates) pursuant to the Applicants' settlement in those states with CLECs including Integra,[1] Verizon has been investigating and making any necessary system modifications to confirm that the systems are fully operational. Verizon has worked to ensure that the performance of the realigned centers matches or exceeds the performance pre-realignment. For example, Verizon has allocated staffing to the centers for the 13-states in proportion to the staffing allocated prior to the realignment. Prior to realignment, there were 50 people handling ASR ordering functions. Approximately 30% of those pre-realignment orders pertained to the 13-states. Thus, immediately after the realignment, nineteen people were allocated to handle ASR ordering functions in the 13-states. Since then, Verizon added seven additional people in the middle of April to answer calls and five additional order writers, for a total of 31 people handling the ASR ordering functions for the 13-states. Thus, contrary to Integra's assertions, there were never only six people handling the ASR ordering function for the 13-states.

Verizon has also worked diligently to maintain its timeliness in providing Firm Order Confirmations, or FOCs, to wholesale providers. While bringing staff up to speed on the realigned systems may have caused minor delays during a short period of time immediately after realignment, Verizon has provided FOCs for special access orders on time approximately 87% of the time in the re-aligned centers between May 1-12. Verizon personnel also have worked overtime to clear any FOC backlogs and finished clearing the backlogs on Saturday, May 8. In the first three days since those backlogs were cleared (May 10-12), the 13-states centers have averaged nearly 95% on-time performance for FOCs for special access.[2]

Verizon has worked to maintain short answer times and to reduce hold times for calls to the centers. Because initial post-realignment answer times in early April were above Verizon's internal targets, Verizon brought in support staff to assist with training for both employees on the

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[1] *In re the Joint Application of Verizon Commc'ns Inc. & Frontier Commc'ns Corp.*, UT-090842, Settlement at 7 ¶15.a (Utils. & Transp. Comm. Wash. Dec. 11, 2009); *see also In re Application of Frontier Commc'ns Corp., New Commc'ns Holdings Inc. & Verizon Commc'ns Inc.*, Case No. 09-454-TP-ACO, Stipulation and Recommendation – Joint Applicants and Comcast Phone of Oh., LLC, Attachment A (Settlement Agreement) (Pub. Utils. Comm'n Ohio Dec. 9, 2009) (settlement agreement covering Illinois, Ohio, Oregon and Washington); *see also In re Verizon Commc'ns Inc. & Frontier Commc'ns Corp.*, UM 1431, Stipulation at Conditions 6-7 (Pub. Util. Comm'n Or. Dec. 4, 2009)

[2] Integra's orders between April 1 and yesterday were only approximately ½ of 1% of the total ASRs processed during that time period.

phones and the call center management team. Since Verizon conducted that training, it has consistently exceeded its internal targets for resolving calls, and, between May 1-12, has averaged more than 90% of calls handled within 20 seconds.

Integra also raised concerns regarding the time to resolve Partner Solutions Customer Care ("PSCC") trouble tickets, completion of hot cuts, and the timeliness of issuance of completion notices. These concerns are without merit. For example, Integra contends that Verizon's designated center for wholesale customers to report system errors, the PSCC, has developed a backlog of trouble tickets. But Verizon has reduced the time it takes to resolve PSCC trouble tickets for Integra by an average of 7 days following the realignment. As to completion of hot cuts, between April 23 and present, Verizon completed all of Integra's hot cuts on time. And, Verizon provided timely completion notices to Integra for Local Service Requests more than 95% of the time in April 2010, similar to pre-realignment numbers.[3]

As it has agreed in its state settlements, Verizon remains committed to working with Integra and with other CLECs to respond to any concerns or issues.

Second, in an attempt to bolster its case for conditions, Integra also appears to have manufactured an alleged dispute with Frontier and Verizon regarding the agreement under which Frontier would replace Verizon in a wholesale contract with Integra ("Adoption Agreement"). Although Frontier and Verizon sent letters and a proposed agreement to Integra on January 21, 2010, Integra waited nearly five months – until two days before its ex parte meeting – to write back to Frontier and Verizon about its alleged concerns with the Adoption Agreement. As addressed more fully in the attached letter to Integra, Frontier will work to address any real concerns Integra has with the implementation of the state settlement agreements.

Integra et al.'s additional requested conditions

In general, Integra et al. provide no analytical basis to tie their proposed conditions to any transaction-specific harm. To the extent that they are relying on a "Big Footprint" argument, as Frontier and Verizon argued in their reply comments, no one has shown that such a theory is applicable to a transaction in which a large carrier is divesting assets to a smaller one.[4] Certainly, no party has ever made the provided the "rigorous" and "empirical" data to support a "big footprint" claim.[5]

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[3] Data regarding timely completion notices is run on a monthly basis at the end of the month.

[4] Frontier-Verizon Reply Comments at 32-33. *See* FairPoint/Verizon Order, 23 FCC Rcd at 523 ¶ 17 ("[W]e find that, because FairPoint has a much smaller footprint than Verizon, it will have a smaller incentive to discriminate."). Embarq/CenturyTel does not require a contrary conclusion. That was not a case in which exchanges were transferred from a larger LEC to a smaller one. *See* Embarq/CenturyTel Order, 24 FCC Rcd at 8755 ¶ 33 n.106.

[5] *AT&T Inc. and BellSouth Corporation, Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5734 ¶ 185 (2007).

Requested Conditions Nos. 5 and 8: Integra et al.'s requested Conditions Nos. 5 and 8 are unnecessary. Where Frontier is the successor to Verizon contracts, it must honor those contracts as a matter of contract law. Moreover, Frontier cannot change the terms of its state or federal ILEC tariffs with impunity. Those changes are subject to review by the appropriate regulatory commission. With respect to Integra et al.'s request for a condition prohibiting lawful changes in rates after following required legal processes, this request is not transaction specific, and Integra et al. do not even put up a pretense of transaction-specificity. With respect to adjustments to volume and term contracts that cover both Verizon areas being transferred to Frontier and those being retained by Verizon, the Applicants have already addressed those concerns.[6]

Requested Condition No. 9: As discussed in Frontier and Verizon's ex parte letter of May 13, 2010, this condition is unnecessary. Frontier has not disputed that the company it is acquiring from Verizon in West Virginia will continue to be a Bell Operating Company.

Requested Condition No. 1: This proposed condition is both unnecessary and not transaction specific. Nothing about this transaction makes it any more likely that Frontier will choose to discontinue, withdraw or stop providing wholesale service previously provided by Verizon than would have been the case for Verizon prior to the transaction. Integra et al. fail to provide any causal link between the transaction and the feared harm. Moreover, both the FCC and states have discontinuance policies and approval processes that address this concern.

Requested Condition No. 2: This proposed condition is unnecessary. Frontier cannot raise these rates within its ILEC operations over CLEC objections without following required tariff or interconnection agreement arbitration procedures.

Requested Condition No. 10: This proposed condition is also not transaction specific. The transaction effects no change regarding the status of the acquired LEC properties as an ILEC or, as appropriate, a rural telephone company. The Verizon ILEC properties that are transferred to Frontier will remain ILEC properties, and the Verizon ILECs that are "rural telephone companies" potentially eligible for treatment under Section 251(f)(1) have that legal status both before and after the transaction. Moreover, with respect to ILEC status, the Commission has granted only one request for the ILEC designation to be removed from a LEC.[7] In that case, the ILEC's overwhelming line loss to a competitor led the Commission to remove the ILEC designation. There is no apparent reason why, should a similar situation occur with respect to a Verizon ILEC transferred to Frontier, it would be desirable from a policy perspective to continue to treat that LEC as an ILEC.

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[6] *See* Ex Parte Letter of John T. Nakahata, Counsel to Frontier Communications Corp., and Karen Zacharia, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 13, 2010).

[7] *See In re Qwest Petition for Forbearance Under 47 U.S.C. § 106(c) From Resale, Unbundling and Other Incumbent Local Exchange Requirements Contained in Sections 251 and 271 of the Telecommunications Act of 1996 in the Terry, Montana Exchange Area*, 23 FCC Rcd. 7257 (Apr. 21, 2008).

With respect to Section 251(f)(2), the only effect of the transaction will be to make Frontier, including both its legacy properties and the properties being acquired from Verizon, ineligible for treatment under Section 251(f)(2).

Requested Condition No. 19: This proposed condition is not transaction specific. Integra et al. provide no causal link between the transaction, a transaction-specific harm, and the requested remedy. Integra et al. provide no explanation as to why the transaction would make it more likely for Frontier to change collocation than it was for Verizon to do so.

Requested Condition No. 21: This condition is both unnecessary and not transaction specific. In the first instance, the alleged episode giving rise to this proposal involved FiberNet and Verizon West Virginia. That particular situation has already been addressed by the West Virginia CLEC settlement, to which FiberNet was a party. In addition, however, Integra et al. provide no explanation as to why Verizon's alleged past conduct portends a transaction-specific harm from Frontier's future control. This is either an industry-wide issue or a matter that is most appropriately addressed in a complaint proceeding with a full opportunity to develop the facts.[8] In either case, it is not the appropriate subject of a transaction condition.

Requested Condition No. 25: This condition is an over-the-top effort to rewrite the communications laws for one company, and to deprive it of due process rights. Frontier is already subject to the Commission's enforcement authority should it violate a Commission order. That authority includes notice and an opportunity to explain why a violation did not occur or why a potential forfeiture should be reduced.

Changes to Frontier Voluntary Commitment No. 12. The Commission should also reject Integra's proposal to base Frontier's reporting on the first six months of 2008 rather than on 2009 data and to expand further the reporting beyond what Verizon already provides. Neither of these proposals is transaction specific. Whatever may have occurred in the latter half of 2008 and early 2009 cannot plausibly be called a result of the transaction – especially because this transaction was not even agreed to until May 2009. Integra is now trying to "cherry-pick" time periods. Moreover, in its Oregon settlement agreement, Integra agreed that the level of service provided would be that "provided by Verizon prior to the transaction," which is not the first six months of 2008.[9] Inasmuch as Integra and Applicants did not enter into this settlement until December 4, 2009, Integra must have been aware of the Verizon performance problems that it alleges occurred in late 2008 and early 2009. The common sense reading of what they have

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[8] *See, e.g., In re Application by Qwest Commc'ns Int'l, Inc. for Authorization*, 188 FCC Rcd. 7325, 7407 ¶ 148 (Apr. 15, 2003).

[9] *In re Verizon Commc'ns Inc. & Frontier Commc'ns Corp.*, UM 1431, Stipulation at Conditions 9-10 (Pub. Util. Comm'n Or. Dec. 4, 2009); *see also In re the Joint Application of Verizon Commc'ns Inc. & Frontier Commc'ns Corp.*, UT-090842, Settlement at 7 (Utils. & Transp. Comm. Wash. Dec. 11, 2009) (covering the two states in which Integra operates and agreeing Frontier would provide service of "the same quality … [as] Verizon").

previously found sufficient is a period ending immediately prior to the Transaction Closing Date. With respect to the additional reporting, Frontier has already committed to continue all existing Verizon reporting, including pursuant to the Joint Partial Settlement Agreement in the affected areas being transferred from Verizon to which the JPSA applies, and to a basic baseline set of metrics irrespective of whether they are being reported currently.

A copy of this letter is being filed electronically in the above-referenced dockets.

Sincerely,

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Attachment 1

May 14, 2010

Dennis D. Ahlers
Associate General Counsel
Integra Telecom
6160 Golden Hills Drive
Golden Valley, Minnesota 55416

Mark Trinchero
Davis Wright Tremaine LLP
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Portland, Oregon 97201

Dear Mr. Ahlers and Mr. Trinchero:

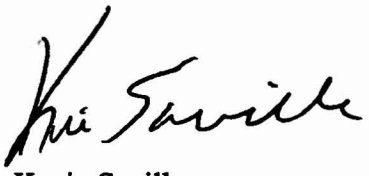
Frontier Communications Corporation just recently became aware of the attached May 10, 2010 letter addressed to David Goldhirsch at Verizon Partner Solutions and Stephen LeVan at Frontier. In your May 10th letter Integra raised concerns regarding a January 21, 2010 letter previously sent by Verizon and Frontier and the agreement under which Frontier would replace Verizon in interconnection agreements and wholesale contracts with Integra and its affiliates ("Adoption Agreement"). Much to my surprise, in the May 10th letter Integra alleges that Frontier and Verizon, by sending the January 21st letter approximately five months ago, have violated the terms of the Washington and Oregon settlements approved by the Oregon Public Utilities Commission and the Washington Utilities and Transportation Commission, respectively on April 16, 2010 and February 24, 2010 (*after* Integra received Frontier's and Verizon's January 21, 2010 letter and the draft Adoption Agreement). To my knowledge Integra has not contacted Frontier prior to the May 10, 2010 letter and raised any concerns or issues regarding the January 21, 2010 letter, the Adoption Agreement or any other issues regarding the implementation of the settlement agreements in Oregon or Washington.

As you know, Frontier and Integra negotiated settlements with Integra in good faith and this letter **confirms** that Frontier will comply with all terms and requirements in the Washington and Oregon settlements, which were approved by the Washington and Oregon Commissions. Integra's concern described in the May 10, 2010 letter regarding changes to references to Verizon's policies, procedures and guides to Frontier's policies, procedures and guides is also misplaced as Frontier has agreed and will honor its commitment in the Washington and Oregon settlement agreements, including the commitment to assume or take assignment of all obligations of Verizon Northwest's current interconnection agreements and other existing wholesale arrangements with Integra (and its affiliates). If Integra has real concerns about the

implementation of the Washington and Oregon settlements, Frontier is prepared to work with Integra to address those concerns.

Please contact me or ask a business representative at Integra to contact Ms. Kim Czak (585-777-7124) at Frontier if Integra would like to discuss this matter.

Sincerely,



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May 10, 2010

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Stephen LeVan
SVP Carrier Sales and Service
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Re: Wholesale Advantage Services Agreement between Verizon Services Corp. and Integra Telecom Holdings, Inc, Integra Telecom of Oregon, Inc. and Integra Telecom of Washington, Inc., Eschelon Telecom of Washington, Inc., Eschelon Telecom of Oregon, Inc., Advanced TelCom, Inc., and Advanced TelCom Group, Inc., and Oregon Telecom, Inc., dated August 31, 2009.

Dear Messers. Goldhirsch and LeVan:

Integra Telecom (Integra) has received a letter from Verizon Communications Inc. (Verizon) and Frontier Communications Corporation (Frontier), dated January 21, 2010, referring to the above-referenced Wholesale Advantage Services Agreement (WASA) and the transfer of certain contracts from Verizon to Frontier. First, it should be noted that the description of the Agreement in the letter is not accurate. The WASA in question has recently been amended to include United Communications, Inc. d/b/a UNICOM ("UNICOM") and Electric Lightwave, LLC ("ELI").

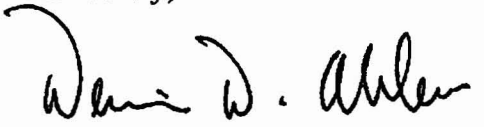
More importantly, the letter and attached "Adoption Agreement" are premature and do not reflect the commitments made to and ordered by state and federal regulatory agencies. They are premature because all of the regulatory agencies have not yet completed their review of the transfer. They also do not fully reflect the orders issued by the regulatory commissions and the agreements made by Verizon and Frontier. For example, in Oregon, Verizon and Frontier agreed and the Commission approved the following condition of approval of the transaction:

> "All VNW existing agreements with wholesale customers, retail customers, and utility operators and licensees for services provided in Oregon including, but not limited to interconnection agreements, commercial agreements, line sharing commercial agreements, and special access discount and/or term plan agreements will be assigned to or assumed by Frontier or its subsidiary and will be honored by the Company for the term of the agreement."

Similar language was agreed to and adopted by the Washington Commission. However, the proposed "Adoption Agreement" purports to change the terms of the Wholesale Agreement by changing all references to "specific and general policies, procedures, product guides, handbooks or other collateral material of Verizon" to refer to Frontier's "policies, procedures, product guides, handbooks or other Frontier collateral material." This is not the same as an assumption of the Verizon agreement by Frontier, but is instead an amendment and modification of the Verizon Wholesale Agreement, is contrary to the stipulation entered into by the parties in the Oregon and Washington proceedings before the state commissions, and inconsistent with the Oregon Commission's Order.

It would seem, in light of the agreements and Commission Order, the more appropriate course of action would be to have a simple and straight-forward assumption of the Verizon WASA by Frontier.

Sincerely,



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cc: J. Jeffery Oxley
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